

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 434 of 1993

with

CRIMINAL MISC.APPLICATION No 1463, 4117, 4128 all of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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STATE OF GUJ

Versus

HARUN KASAN SONARA & 1

Appearance:

1. Criminal Revision Application No. 434 of 1993

Mr.P.G.DESAI PUBLIC PROSECUTOR for Petitioner

MR CH VORA for Respondent No. 1

MR MH BAREJIA for Respondent No. 2

2. Criminal Misc.ApplicationNo 1463 of 1994

Mr.P.G.Desai, PUBLIC PROSECUTOR for Petitioner

MR CH VORA for Respondent No. 1

MR MH BAREJIA for Respondent No. 2

3. Criminal Misc. ApplicationNo 4117 & 4128 of 1994

PUBLIC PROSECUTOR for Petitioner

MR CH VORA for Respondent No. 1

MR MH BAREJIA for Respondent No. 2

CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 08/09/97

ORAL JUDGEMENT

The aforesaid Revision Application arises out of
an order below Exh.66 of Special Case No.74 of 1992 of
the Court of learned Special Judge of Kutch at Bhuj. The
learned Sessions Judge exercising his powers under

Narcotic Act was dealing with the said matter where the prosecution filed the said application for impleading the present respondent no.1 of the Revision as an accused in exercise of the powers of the trial Court under Sec.319 of Cr.P.C. This application Exh.64 came to be heard and decided by the learned Additional Sessions Judge and rejected the same on 18th September 1993.

2. The remaining applications are filed either by respondent no.1 or by the remaining accused of the said Sessions Case for early hearing or vacating the stay etc. All these applications are ordered to be heard along with the main Revision Application. Accordingly, they are being disposed of by this order.

3. A little background is necessary before the order of the learned trial Judge is appreciated.

3.1 Respondent no.1 was originally arrayed as one of the accused in the said Special Case No.74 of 1992 where at his instance application Exh.25 came to be given seeking an order of discharge. That came to be allowed by the learned Sessions Judge on 20th October 1992. Challenging that order, an acquittal appeal came to be filed where a Division Bench of this Court Bhairavia & S.M.Soni,JJ) refused leave and dismissed the appeal. This fact ought to have been stated before the trial Court while dealing with application Exh.64 but no mention whatsoever has been made of the said attempt on the part of the prosecution to challenge the earlier order below Exh.25 by way of an acquittal appeal. Shri Vora, learned Advocate appearing for respondent no.1 had a copy of the writ of this Court that followed the said order of dismissal. On that basis, original papers were called and they are before me. No doubt, in his written petitions before the trial Court, respondent no.1 did raise a point of his having been discharged by an order of the trial Court. When this fact is further reinforced by the record of said original criminal Appeal no.75 of 1993 which came to be disposed of by an order of dismissal and refusing grant of leave on 4-8-1993, obviously, so far as the present revision application is concerned, nothing further is required to be done.

4. Otherwise also, there is no question of either any error in exercise of jurisdiction or any other error whatsoever. The result, therefore, is that the Revision Application fails. It is disposed of accordingly. Rule is discharged.

5. In view of this, the aforesaid Misc.

Applications do not survive. They are disposed of accordingly. Rule in each of them is discharged.
